

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

NICHOLAS JON GOETZ,

Petitioner,

v.

TERI LAWSON,

Respondent.

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No. 4:18-CV-621 PLC

**MEMORANDUM AND ORDER**

This matter is before the Court on petitioner's application for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Because it does not appear that petitioner is "in custody," the Court will dismiss this matter for lack of jurisdiction.

Petitioner submitted an application for writ of habeas corpus on April 18, 2018. On May 14, 2018, the Court ordered petitioner to show cause as to why his petition should not be dismissed for lack of jurisdiction because it was apparent petitioner was not "in custody" within the meaning of § 2254(a). Petitioner has failed to respond to the Court's Memorandum and Order.

In order to obtain relief under § 2254, a petitioner must demonstrate that he is "in custody." The custody requirement is jurisdictional. *E.g., Maleng v. Cook*, 490 U.S. 488, 490 (1989) (per curiam).<sup>1</sup>

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<sup>1</sup>*Wilson v. Flaherty*, 689 F.3d 332, 336-38 (4<sup>th</sup> Cir. 2012), petition for cert. filed (U.S. Feb. 8, 2012) (sexual offender registration requirements do not place the individual "in custody" for purposes of § 2254(a)); *see also, Virsnieks v. Smith*, 521 F.3d 707, 719-21 (7<sup>th</sup> Cir. 2008) *cert denied*, 129 S.Ct. 161 (2008) (sexual offender registration statute that does not limit where the registrant may move or travel does not satisfy the custody requirement); *Leslie v. Randle*, 296 F.3d 518, 523 (6<sup>th</sup> Cir. 2002) (petitioner did not meet "in custody" requirement for filing petition

As noted in the Court's prior Memorandum and Order, petitioner is not confined in an institution, and he does not allege that his freedom is currently restrained by the state. As a result, the Court must dismiss this action for lack of jurisdiction.

Accordingly,

**IT IS HEREBY ORDERED** that petitioner's application for writ of habeas corpus is **DENIED AND DISMISSED** for lack of jurisdiction as petitioner is not in custody.

**IT IS FURTHER ORDERED** that no certificate of appealability shall issue.

Dated this 19th day of June, 2018.

\s\ Jean C. Hamilton

JEAN C. HAMILTON

UNITED STATES DISTRICT JUDGE

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challenging sexual predator statute); *Henry v. Lungren*, 164 F.3d 1240, 1241-42 (9<sup>th</sup> Cir. 1999) (being subject to California's sex offender registration requirement not custody).